

June 16, 2016

Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581  
Attention CFTC Regulation AT Roundtable

RE: Source Code Access and Retention

Dear CFTC Regulation AT Roundtable,

Please find reasons why the Federal Government may not be considered a good control location for proprietary source code for proprietary trading:

- Edward Snowden who copied and leaked classified information from the NSA.
- The U.S. Federal Reserve detected more than 50 cyber breaches between 2011 and 2015, with several incidents described internally as "espionage," according to Fed records.
- A certain State Department head's record of using a private server for classified information. It should be noted there has been no penalty for documented wrongdoing and you can actually be elected leader of the free world after doing so.
- The CFTC oversight of MF Global in revealed a shortfall of more than \$1 billion in customer accounts in the Fall of 2011.

With all due respect to the CFTC, there needs to be substantive changes in the nature of protecting customer assets through the codes of segregation and solvency before ancillary ambitions such as source code repository can be implemented.

In an ideal state of regulation, the market participant simply transmits non personally identifiable information to a centralized information processor for the purpose of assembling the data into real time reports details the amounts customer funds to be segregated and real time capital requirements.

When reporting is done remotely from the firm, it removes the conflict of interest that a firm such as MF Global would not be to account for \$1 billion in funds. As data would move to one centralized system, then only one system would need to be reviewed. Thus the costs of examination to our regulators would decrease as the CFTC, FINRA and SEC would only oversee one system, and not have to overstretch a finite examination resources various participants.

To alleviate the market participants of the examination process would be a fair break of market participants. As data travels less expensively than examiners, then the data. Failure to adopt this structure would be inconsistent with Executive order 13589 Section 3 Travel:

“Agency travel is important to the effective functioning of Government and certain activities can be performed only by traveling to a different location. However, to ensure efficient travel spending, agencies are encouraged to devise strategic alternatives to Government travel, including local or **technological alternatives**, such as teleconferencing and video conferencing. Agencies should make all appropriate efforts to conduct business and host or sponsor conferences in space controlled by the Federal Government, wherever practicable and cost effective. Lastly, each agency should review its policies associated with domestic civilian permanent change of duty station travel (relocations), including eligibility rules, to identify ways to **reduce costs and ensure appropriate controls are in place.**”

Executive Order 13589 Section 1 Policy makes it very clear: “As they serve taxpayers, executive departments and **agencies (agencies) also must act in a fiscally responsible manner**, including by minimizing their costs, in order to perform these mission critical functions in the most efficient, cost effective way.”

As net-capital can be calculated in real-time through an automated system, then it is possible that an electronic transmission of a deficiency can be sent to a designated contract markets (DCM) or an exchange to block trading in real-time. **There really is no need to look at source code when regulatory infrastructure is in place to insure investor protection and market stability.**

The proactive real-time approach minimize the costs of regulation as opposed to stretching the resources of the CFTC. Consequently, out of reverence to the President and the Executive Order 13589 the CFTC **must** unitize the proactive real-time approach which satisfies Regulation AT’s objective of market stability.

Do you think it would be funny if our law enforcers ignored an Executive Order? I do not.

Sincerely,

Peter Schwartz

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